

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, <i>ex rel.</i>	:
DILBAGH SINGH, M.D.,	: Civil Action No. 04-186E
PAUL KIRSCH, M.D.,	:
V. RAO NADELLA, M.D., and	:
MARTIN JACOBS, M.D.,	: The Honorable Judge Cohill
	:
Relators,	:
	:
v.	:
	:
BRADFORD REGIONAL	:
MEDICAL CENTER,	:
V & S MEDICAL ASSOCIATES, LLC,	:
PETER VACCARO, M.D.,	:
KAMRAN SALEH, M.D.,	:
and DOES I through XX,	: (Filed Electronically)
	:
Defendants.	:

**V&S MEDICAL ASSOCIATES, LLC, PETER VACCARO, M.D. AND KAMRAN
SALEH, M.D.'S MOTION FOR SUMMARY JUDGMENT**

Defendants V&S Medical Associates, LLC ("V&S"), Peter Vaccaro, M.D. ("Vaccaro"), and Kamran Saleh, M.D., ("Saleh") (collectively referred to as the "V&S Defendants"), by their undersigned counsel, file the following Motion for Summary Judgment, stating as follows:¹

1. The present qui tam action was commenced by Dilbagh Singh, M.D., Paul Kirsch, M.D., V. Rao Nadella, M.D., and Martin Jacobs, M.D. (hereafter collectively referred to as the "Relators") under the federal False Claims Act (the "FCA"), 31 U.S.C. §§ 3729-3732. The

¹ The V&S Defendants' Motion for Summary Judgment is merely an overview of some of the facts and arguments which are more fully set forth in the V&S Defendants' Concise Statement of Material Facts (the "Statement of Facts") and Memorandum of Law in Support of Motion for Summary Judgment (the "Memorandum"). The Statement of Facts and Memorandum contain all of the V&S Defendants' citations to the record, affidavits, and evidence in support of their Motion for Summary Judgment.

Relators' allegations rest entirely on the assertion that a sublease of medical equipment between Bradford Regional Medical Center ("BRMC") and V&S (the "Sublease"), as well as related arrangements, violate the Anti-kickback Statute, 42 U.S.C. § 1320a-7b(b) ("AKS") and/or the Physician Self-Referral Act, 42 U.S.C. § 1395nn (the "Stark Law").

2. However, contrary to the Relators' assertions, there is no direct or indirect financial relationship between BRMC and either Dr. Saleh or Dr. Vaccaro, as defined by the Stark Law and regulations thereunder.

3. In addition, even if the Stark Law did apply to the Sublease and related arrangements, those transactions would fit within one or more exceptions set forth in the regulations implementing the Stark Law, and thus be permitted.

4. Any financial relationships between BRMC and either V&S and/or Saleh and Vaccaro also fit within the applicable safe harbors promulgated by the Office of Inspector General of the Federal Department of Health and Human Services, 42 C.F.R. § 1001.952, and thus do not violate the AKS.

5. Furthermore, even without a finding that the Stark Law does not apply to the transactions at issue or that the transactions fit within the exceptions or safe harbors of the Stark Law or the AKS, the Relators have not and cannot establish any violation of the FCA by the V&S Defendants. The V&S Defendants have not made any false or fraudulent claims for payment to the United States Government and have not used or made a false record or statement to the Government, nor did they have any reason to believe that their actions would or could cause the filing of a false claim or use of a false record or statement. In addition, the evidence in this case has established that the V&S Defendants did not possess the required scienter for any FCA violation, and the Relators have failed to prove to the contrary.

6. Accordingly, the pleadings, depositions, affidavits, and other evidence demonstrate no genuine issue as to any material fact regarding the above, and the V&S Defendants are entitled to judgment as a matter of law.

WHEREFORE, it is respectfully requested that this Motion be granted and that the Relators' claims against the V&S Defendants be dismissed with prejudice.

Respectfully submitted,

FOX ROTHSCHILD LLP

Dated: September 10, 2008

s/Carl J. Rychcik

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Peter Vaccaro, M.D.
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2008, a true and correct copy of the foregoing V&S Medical Associates, LLC, Peter Vaccaro, M.D. and Kamran Saleh, M.D.'s Motion for Summary Judgment was served via the Court's ECF transmission facilities upon the following counsel of record:

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